

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JING GAO, ALVIN RABSATT,
BARRY NIXON, PATRICIA NIXON,
KATHERINE PIERCE, ARTHUR
PIERCE, MADISON LOWE, and
IOLANDA LOWE, on behalf of
themselves and all others similarly
situated,

VS.

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CIVIL ACTION NO. 3:16-cv-00323

BLUE RIDGE LANDFILL TX, LP

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE SUPPLEMENTAL
BRIEF**

Plaintiffs Jing Gao, Alvin Rabsatt, Barry Nixon, Patricia Nixon, Katherine Pierce, Madison Lowe, and Iolanda Lowe (“Plaintiffs”) hereby request that the Court allow Plaintiffs to file a supplemental brief in opposition to Defendant’s Motion for Summary Judgment, and in support thereof, would respectfully show as follows:

1. On August 10, 2017, Defendant filed a Motion for Summary Judgment ([Doc. No. 61]) that asserts, among other things, that Plaintiffs’ claims are barred because Defendant claims that the nuisance must have begun outside the statute of limitations.
2. Discovery is ongoing in this case. On August 24, 2018, the parties deposed the agency designee of the Texas Commission on Environmental Quality. The transcript of that deposition was not available before Plaintiffs’ August 31, 2018 deadline to respond to Defendant’s motion.
3. Plaintiffs seek to use testimony from the TCEQ deposition in support of their argument

that to the extent the nuisance may be deemed permanent, it did not begin until late 2015 and therefore no claims are barred and the Plaintiffs do not lack standing to pursue their claims.

4. Plaintiffs request that the Court grant leave for them to file a short supplemental brief setting forth the deposition testimony that was not yet available when Plaintiffs responded to Defendant's motion.

Dated: September 12, 2018

Respectfully submitted,

GILMAN *ALLISON LLP

/s/ Brenton J. Allison
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**ATTORNEYS FOR PLAINTIFFS AND THE
PUTATIVE CLASS**

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing is being served on all counsel of record on this 12th day of September, 2018, by electronic service through email service.

/s/ Brenton J. Allison
Brenton J. Allison